

**PROCEDURES AND RULES FOR
BUSINESS LICENSE TAX ASSESSMENTS AND APPEALS
CITY OF HARTSVILLE, SOUTH CAROLINA**

This policy sets forth the procedures and rules for business license tax assessments and appeals (this “*Policy*”) within the City of Hartsville, South Carolina (the “*City*”). This Policy shall be read in conjunction with the Sections 6-1-400 through 6-1-420 of the Code of Laws of South Carolina 1976, as amended (the “*S.C. Code*”) and the City’s business license program, which is codified at Part II, Chapter 14, Article II of the City’s code of ordinance (the “*Business License Program*”). In the event of any inconsistency or conflict between the provisions of this Policy and the S.C. Code, the S.C. Code shall be controlling as to the extent of the conflict or inconsistency.

I. Definitions

Business: shall have the meaning set forth in the Business License Program.

Council: means the City Council of the City of Hartsville, as the governing body of the City.

Hearing Officer: means the assigned legal counsel by the City to oversee the general adjudication of the Hearing in order to ensure compliance with this Policy. In situations where the Hearing Officer is the Council or an appeals board, the Hearing Officer may engage separate legal counsel to assist them in the administration of the proceedings of any hearing to be held hereunder.

License Official: shall have the meaning set forth in the Business License Program.

Taxpayer: means an individual, firm, partnership, limited liability partnership, limited liability corporation, corporation, trust, estate, association, or company that is acting, or is authorized to act, on behalf of the Business.

II. Assessment and Appeal Process

1. Notice of Assessment. If a Taxpayer fails or refuses to pay a business license tax by May 1 of any applicable business license tax year or any other applicable due date for the payment of business license taxes, the License Official may serve notice of an assessment on the Taxpayer by mail or personal service.
2. Adjustment Request. The Taxpayer may request an adjustment in writing with supporting reasons within 30 days of the postmark or personal service of the notice of assessment.

3. Informal Conference. Within 15 days of receiving the request to adjust the assessment, an informal conference between the Taxpayer and License Official must be held.
 - a. The conference should not be recorded by either the Taxpayer or the License Official, and the compulsory disclosure of documents by subpoena is not allowed.
 - b. The informal conference is not a public hearing and is not open to the public.
 - c. To allow for a fair presentation, the Taxpayer may be accompanied or advised by an attorney, accountant or other representative. The License Official also may be accompanied or advised by an attorney or accountant, or by other City staff members.
 - d. The License Official shall preside and determine when the conference is concluded.
 - e. The Taxpayer shall be allowed to present any information or documents then in the possession of the Taxpayer that support the assessment adjustment requested by the Taxpayer.
4. Final Assessment. The Notice of the Final Assessment, including an appeal request, the form of which is attached hereto as Exhibit A, must be issued within five (5) days of the informal conference.
 - a. Notice shall be issued to the Taxpayer via mail or personal service.
 - b. Notice must include the appeal form.
5. Right to Appeal. The Taxpayer may appeal the final assessment to the Hearing Officer within 30 days after the notice of final assessment is postmarked or personally served.
 - a. The Taxpayer may appeal by completing the request for appeal (included with the Notice of Final Assessment), the form of which is attached hereto at Exhibit A.
 - b. The Taxpayer must timely pay at least 80% of the final assessment under protest as a condition of appeal. Failure to pay this amount with the notice of appeal and by the deadline for the filing thereof will result in an automatic denial of the appeal.

6. Hearing. A hearing on the appeal with the Hearing Officer must be held within 30 days of the receipt of the appeal form, unless extended in writing by mutual agreement of the City and the Taxpayer.
 - a. The License Official must provide Taxpayer with written notice of hearing including the time, date and location of the hearing and the rules of evidence for the hearing set forth in Article III of this Policy.
 - b. The hearing shall be conducted in accordance with Article IV of this Policy.
 - c. During the hearing, the Taxpayer has the right to be represented by counsel, to present testimony and evidence consistent with Article III of this Policy, and to cross-examine witnesses.
 - d. The hearing must be recorded and must be transcribed at the expense of the party so requesting. Nothing herein shall prohibit the parties from agreeing to jointly share transcription or other costs.
 - e. Disclosure of information as to gross receipts contained in applications for business license would constitute an unreasonable invasion of personal privacy. The City may not share or disclose any information relating to business license tax applications with any third party other than to acknowledge whether or not a business has paid the taxing jurisdiction's business license tax for a relevant year.
 - f. The hearing shall be open to the public; however, to the extent that information pertaining to gross receipts of a business or other information of a personal nature is being presented, the review shall be conducted in-camera by the Hearing Officer. The review shall be closed to the public and the Hearing Officer will comply with all confidentiality requirements set forth in Title 30, Chapter 4 and Title 6, Chapter 1 of the S.C. Code, and the Business License Program.
7. Decision. The decision on the assessment shall be made by the Hearing Officer, and shall be by simple majority vote if there is more than one person serving as the Hearing Officer in open session. Any tie votes shall be construed in favor of the Taxpayer.
8. Findings. The decision shall include findings of fact based only upon evidence presented at the hearing.
9. Provision of Written Decision. Following the hearing and decision, the Hearing Officer shall draft a final order of the decision explaining the basis of the decision.

- a. The final written order shall be provided to the Taxpayer via mail or personal service within 14 days of the date of the hearing.
 - b. The written order must include findings of fact and conclusion and inform the Taxpayer of their right to appeal to the Administrative Law Court.
10. Further Relief. The Taxpayer has 30 days after the postmark or personal service of the written decision to make and file an appeal to the Administrative Law Court.

III. Rules of Evidence

1. Governing Statute. S.C. Code §1-23-330 shall govern questions of evidence. Strict compliance with the South Carolina Rules of Evidence is not required, but the Hearing Officer shall only receive relevant information. If there shall be a question as to relevance, such decision shall always be made in favor of the Taxpayer.
2. Objections. Objections to evidence shall be timely made and noted in the record. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony. If the evidence excluded consists of a document or exhibit, it shall be marked as part of an offer of proof and included in the final record.

IV. Order of Proceedings.

1. Opening Statements. The Hearing Officer shall give a brief opening statement describing the nature of the proceeding. The parties may be given an opportunity to present brief opening statements lasting no more than five (5) minutes each.
2. Presentation of the Evidence. Parties shall present their evidence as follows:
 - a. The City, as the taxing jurisdiction, will be the first to present evidence.
 - b. The City shall call its witness(es) with the Taxpayer being allowed to cross-examine in an orderly fashion.
 - c. The City shall have up to fifteen (15) minutes to question each witness while the Taxpayer shall have up to ten (10) minutes to cross-examine the witness.
 - d. When the City rests, the Taxpayer shall call its witness(es) with the City being allowed to cross-examine in an orderly fashion.
 - e. The Taxpayer shall have up to fifteen (15) minutes to question each witness

while the City shall have up to ten (10) minutes to cross-examine the witness.

- f. Each witness shall be sworn or affirmed by the Hearing Officer and be subject to examination.
- g. All objections to procedure, admission of evidence, or any other matter shall be timely made and stated on the record.
- h. When all of the parties and witnesses have been heard, the parties may be given the opportunity to present brief final arguments lasting no more than five (5) minutes each.
- i. The Hearing Officer may convene an executive session to receive legal counsel, but deliberation must be conducted in open session.
- j. The Hearing Officer shall then vote and issue its ruling as to the appeal on the record.
- k. The Taxpayer shall have the right to appeal the Hearing Officer's decision to the Administrative Law Court as described hereinabove.

V. Appeals to City Council. Absent the adoption of separate or different rules by the Council related to direct appeals to City Council under the Business License Program, Sections III and IV above governing the rules of evidence and the order of proceedings described above shall apply to any direct appeals Council under the Business License Program, and any references to the Hearing Officer in such section shall apply to the Council *mutatis mutandi*.

Exhibit A

Notice of Final Assessment & Appeal Form

STATE OF SOUTH CAROLINA)	
)	NOTICE OF FINAL ASSESSMENT OF
COUNTY OF DARLINGTON)	BUSINESS LICENSE TAX
)	
CITY OF HARTSVILLE)	

Date of Original Notice: _____
Business Code: _____
NAICS: _____
Name of Business: _____
Mailing Address _____
S.S./Fed. ID No.: _____
Last License No.: _____ Year: 20____
Date of Informal Conference _____

Section 6-1-410(A) of the Code of Laws of South Carolina 1976, as amended, provides that if a taxpayer fails or refuses to pay a business license tax by May 1 [or other applicable deadline], the taxing jurisdiction may serve notice of assessment of the business license tax due on the taxpayer by mail or personal service. You chose to appeal the original notice of assessment. On the basis of an informal conference held with the License Official on the date noted above, the taxing jurisdiction has determined your final assessment as provided below. **This is your final notice of assessment.**

This assessment may be appealed within 30 days after the date of postmark or personal service of the final assessment by (a) filing the completed appeal form, the form of which is attached hereto, with our business license official, and (b) paying under protest of at least 80% of the business license tax based on the final assessment.

The business named above is hereby assessed the following business license tax and penalties for the license year indicated.

<u>Year</u>	<u>Gross Income</u>	<u>Tax Rate</u>	<u>License Tax</u>	<u>Penalties</u>
20__	_____			
20__	_____			
20__	_____			
		Totals	_____	

[Penalties accrue at the rate of 5% per month until payment is made in full.]

Date: _____, 20__

License Official

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)
)
CITY OF HARTSVILLE)

NOTICE OF APPEAL FORM

Date of Original Notice: _____
Business Code: _____
NAICS: _____
Name of Business: _____
Mailing Address _____
S.S./Fed. ID No.: _____
Last License No.: _____ Year: 20____
Date of Informal Conference _____

The business named above has been assessed the following business license tax and penalties for the license year indicated.

<u>Year</u>	<u>Gross Income</u>	<u>Tax Rate</u>	<u>License Tax</u>	<u>Penalties</u>
20__	_____	_____	_____	_____
20__	_____	_____	_____	_____
20__	_____	_____	_____	_____
		Totals	_____	_____

I, the undersigned taxpayer, as the duly authorized representative of the business named above, elects to appeal the business license tax assessment stated above. The reasons for such appeal are provided below (as may be supplemented by such additional written materials or evidence):

By filing this appeal, I represent and understand that: (i) the business is paying under protest the sum of \$_____, which is at least 80% of the business license taxes described above; (ii)(1) a failure to timely remit at least 80% of the business license tax assessment described above or (2) a failure to timely submit this appeal notice within 30 days of the receipt of the notice of final assessment shall result in an automatic rejection of the appeal and constitutes a complete waiver of my right to appeal the business license taxes due to the taxing jurisdiction; (iii) the business has the right to a hearing regarding the requested appeal within 30 days of the timely filing of this appeal; and (iv) the hearing shall be held in accordance with the rules and procedures adopted by the taxing jurisdiction.

Date: _____, 20__

Taxpayer